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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,784	06/05/2001	Edward Alun Sketch	200-1320 DBK	9107
28395	7590	07/18/2005	EXAMINER	
BROOKS KUSHMAN P.C./FGTL 1000 TOWN CENTER 22ND FLOOR SOUTHFIELD, MI 48075-1238			BYLCIW, STEPHEN	
			ART UNIT	PAPER NUMBER
			3623	

DATE MAILED: 07/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/681,784

Applicant(s)

SKETCH, EDWARD ALUN

Examiner

Stephen Bylcw

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/14/01 & 8/6/01.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This non-final office action is in response to the patent application filed in the United States on June 5, 2001. Claims 1-20 are pending.

Examiner's Note

2. It has been noted in claim 20 that the applicant uses "means for" terminology and has not indicated whether to invoke 35 U.S.C. § 112, paragraph 6. The examiner by default assumed the applicant did not intend to invoke 35 U.S.C. § 112, paragraph 6. If the applicant requests an examination considering 35 U.S.C. § 112, paragraph 6, please provide the specific page(s) and line number(s) within the specification that describe the relevant claimed structure, material, or acts.

Information Disclosure Statement

3. Two Information Disclosure Statements were received. The first on 6/14/2001 and the second on August 6, 2001. The second was a duplicate and not considered as part of the examination.

Drawings

4. The drawings are objected to because the drawing showing items 60-66 is missing the label "Figure 4." Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures

appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. The use of the trademarks (example: paragraph 56, line 4, "Flash" and line 7, "Java") has been noted in this application. "Flash" is a registered trademark of Macromedia (<http://www.macromedia.com/help/trademarkguideline.html>) and "Java" is a trademark of Sun Microsystems (<http://www.sun.com/suntrademarks/>). Trademarks should be capitalized wherever they appear and be accompanied by the appropriate generic terminology.

It is kindly suggested that the applicant replace "Flash" with "FLASH® animation software" and "Java" with "JAVA™ platform" in the disclosure. "Animation technology" and "platform" are examples of generic terminology that may be appropriate.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner that might adversely affect their validity.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 1-9, 13, 15-16, 18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saba Software Learning Management System from 1997-2000 aspects of which are evidenced by the following references:**

- I. Saba Software web page from 6/21/2000: "Saba Learning Network, Enterprise Series"; hereafter referred to as Reference A.
- II. Burriesci, J. "It's All About The Knowledge" Intelligent Enterprise, August 24, 1999, pages 10 and 12; hereafter referred to as Reference B.

- III. "Red Hat To Offer Saba Learning To Meet Global Training Needs" Business Wire, July 24, 2000; hereafter referred to as Reference C.
- IV. Khirallah, D.R. "Veterans Agency Turns To Online Training" Information Week, March 27, 2000, page 83; hereafter referred to as Reference D.
- V. Saba Software web page from 6/7/2000: "Saba Competency Content Alliance"; hereafter referred to as Reference E.
- VI. Saba Software web page from 5/10/2000: "Saba Learning Exchange"; hereafter referred to as Reference F.
- VII. Rice, D. "Hyundai Revs Training With Saba" IT Support News, June 2000, pages 18 and 20; hereafter referred to as Reference G.
- VIII. Rice, D. "techies.com Signs On With Saba" IT Support News, August 2000, page 22; hereafter referred to as Reference H.

Regarding claims 1-2, 15, 18, 20, Saba Software teaches a learning management system comprising:

- Defining and/ or receiving input regarding an employment function and preferred method of learning. Reference A, lines 8-9 teaches learners have a role (employment function) that they define when targeting knowledge profiles and assessing their knowledge. Reference B, page 10, column 1, line 34 to column 2, line 7 teaches that the content can be in different formats and uses profiling to tailor lessons to learning styles. Reference C, line 12 teaches that the learner sets up a profile in the system.

- Assessing functional competency based on the employment function via an online self-assessment. Reference A, lines 8-9 teaches learners have a role (employment function) that they define when targeting knowledge profiles and assessing their knowledge. Reference D, column 3, lines 6-8 teaches skills assessment tests online.
- Identifying gap(s) between an assessed functional competency and a predefined competency required for the employment function (Reference A, lines 1-5 and 8 teaches a comprehensive application that measures and closes critical knowledge gaps for individuals and groups by targeting required knowledge for their role. Reference E, lines 4-6 teaches a competency gap analysis that focuses education efforts. Reference D, column 1, lines 43-47 teaches tests and skills analysis to measure knowledge gaps needed for a particular job. Reference C, lines 13-14 teaches establishing a user profile, identify gaps, and obtain the appropriate learning.
- Identifying and/ or presenting an appropriate learning solution for reducing gap(s) Reference F, lines 2-4 teaches a system to find appropriate learning solutions to fill gaps. Reference G, page 20, column 4, lines 19-24 teaches that after the skills-gap analysis is completed employees can select from a variety of courses (learning solutions) and delivery methods. Reference C, lines 12-13 teaches identifying knowledge gaps and obtaining appropriate learning.
- Identifying at least one learning solution that is in accordance with the preferred method of learning. Reference B, page 10, column 1 line 34 to column 2, line 7

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teaches content can be in different formats and collaborative profiling tailors lessons to individual learning styles and preferences.

Official notice is taken that it is old and well-known in the art at the time of invention that learning solutions may comprise many different methods including: classroom, software, online, and on-the-job training activities. It would be obvious to one of ordinary skill in the art to offer multiple learning methods for the advantage of efficiency of training.

Regarding claims 3-7, Saba Software teaches a learning management system comprising:

- Evaluating a learning solution (Reference F, lines 9-10... teaches sharing of impressions about learning solutions and reading reviews from others) and posting these evaluations online for others to review interactively (Reference F, lines 7-10... teaches chatting and sharing ideas online with other learners about different learning offerings) after completion of a learning activity.
- Evaluating best practices for implementing a learning solution and identifying implementation roadblocks after completion of a learning activity (Reference F, lines 7-10... teaches chatting and sharing ideas online about different learning offerings and read reviews (positive aspects, difficulties, obstacles) of learning solutions).

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Regarding claim 16, Saba Software teaches a learning management system comprising:

- A configuration to receive input defining interactive assessment content (Reference F, lines 7-10... teaches sharing of impressions about learning solutions and reading reviews from others).
- A configuration to receive input defining learning solution content (Reference F, lines 1-4... teaches a global network to find learning offerings listed by industry, role, certification, and competency).
- A configuration to receive input defining competency level requirements for the employment function(s) (Reference E, lines 4-6... teaches integrating competency libraries for gap analyses and to focus education efforts).

Regarding claims 8-9, 13, Saba Software teaches a learning management system comprising:

- Completing online testing to assess knowledge transfer. Reference C, lines 13-14 teaches all courses and progress will be tracked, and there will be pre-and post-gap analysis assessments.
- Mining/ searching evaluation data to identify and make learning solution improvements. Reference C, lines 13-14 teaches tracking and performing assessments to plan and deploy future course offerings.
- Assessing functional competency for an employment function other than an employee's current function. Reference H, page 23, column 1, lines 42-49

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teaches the ability to compare own skills to other in-demand jobs, see what gaps exist and recommend learning.

8. Claims 10, 17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saba Software as applied to claims 1-10, and 13 and in further view of Collegebytes.com (1999)

Regarding claims 10, 17, and 19, Saba Software teaches a learning management system that allows for the assessment of participants and their function, the ability to create a gap analysis, and a set of learning solutions to close the gap identified. Saba's systems comprises the ability to:

- Mine by employment function, competency assessment, competency gap, and evaluation data. Reference A, lines 1-3, 14, 15, and 17 teaches targeting required knowledge profiles for role(s) (employment functions) within a group or an individual, assessing knowledge gap(s), and tracking (searching) results for the group or individual(s).

Saba Software's learning management system does not expressly teach:

- Acquiring or selling learning solutions in an online auction format.

Collegebytes.com (1999) teaches a computer-based system that sells textbooks via an online auction format. Collegebytes.com and Saba Software are in the analogous art of providing products and services to students. It would be obvious to one of ordinary skill in the art at the time of invention to combine the teachings of Saba

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Software and collegebytes.com to create a system and method to sell learning solutions via an online auction format for the advantages of an efficient marketplace.

9. Claims 11-12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saba Software as applied to claims 1-10, and 13 and in further view of Tuttle (U.S. Patent 6,591,246)

Regarding claims 11-12 and 14, Saba Software teaches a learning management system that allows for the assessment of participants and their functional competencies, the ability to create a gap analysis, and a set of learning solutions to close functional competency gaps identified.

Saba Software's learning management system does not expressly teach:

- Mining online assessment data to identify preferred functional competencies for new employees.
- Mining/ searching online assessment data to select current employees for employment opportunities.
- Mining assessment data to select groups of employees for functional competencies necessary to perform a group-orientated task.

Tuttle teaches a computer-based system that creates a database of assessments and analyses of skills of the workforce that can be analyzed to determine

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capability gaps that can be used in recruiting and training decisions. The system comprises:

- Mining online assessment data to identify preferred functional competencies for new employees (column 1, lines 5-11).
- Mining/ searching online assessment data to select current employees for employment opportunities (column 1, lines 29-32).
- Mining assessment data to select groups of employees for functional competencies necessary to perform a group-orientated task (column 1, lines 43-46).

Saba Software and Tuttle are analogous arts in the field of employee/ workforce capability assessment and improvement. It would be obvious to one of ordinary skill in the art at the time of invention to combine the teachings of Saba and Tuttle to enable a system that could assess the capabilities of their employees and identify individual or groups of employees to be selected for employment opportunities and tasks for the advantage of convenience in a single system.

Conclusion

10. This office action has an attached requirement for information under 37 C.F.R. § 1.105. A complete response to this Office action must include a complete response to the attached requirement for information. The time period for reply to the attached requirement coincides with the time period for reply to this Office action.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

a) Rae (1994) teaches various teaching methods that can be combined with on-the-job training in a learning solution.

b) Mui (2003) teaches a method to identify needed workforce training using competency records, person records, and desired goal profiles. Related provisional applications date back to February 2000 making this prior art.

c) Parrish (U.S. Patent 5,416,694) teaches a system and method for workforce planning and occupational readjustment comprising: i) Defining an employment function (column 5, lines 53-57); ii) Assessing functional competency based on the employment function via an online self-assessment (column 5, lines 58-60); iii) Identifying a gap between an assessed functional competency and a predefined competency required for the employment function (column 6, lines 30-35); and iv) Identifying an appropriate learning solution for reducing the gap (column 6, lines 30-35).

d) Kenyon (1998) teaches a method of employees being able to search online for courses based on their job and once they found desired courses they can order an

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instructional videotape, obtain a link to web-based training, or complete a registration process to enroll in a divisional classroom.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Bylcw whose telephone number is 571-272-8125. The examiner can normally be reached on weekdays, 8AM-5PM Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SB SB 7/1/05



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